

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS RUIZ FLOREZ,

Plaintiff,

-against-

88 ORCHARD COFFEE LLC, LIMCHI
SANG

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/11/2020

19-CV-10176 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On November 1, 2019, Plaintiff filed this action against Defendants 88 Orchard Coffee LLC and Limchi Sang. (Doc. 1.) Plaintiff obtained summonses on November 5, 2019. (Docs. 5, 6.) Because Plaintiff did not file an affidavit of service or take any other action to prosecute this case, on February 4, 2020, I issued an order directing the Plaintiff to submit a letter demonstrating “good cause” under Federal Rule of Civil Procedure 4(m) as to why this case should not be dismissed. (Doc. 7.) I further instructed Plaintiff that failure to submit a letter in accordance with my order would result in dismissal of this action. (*Id.*) Although the deadline set by my order has passed, Plaintiff has not submitted a letter in accordance with my order.

Rule 41 authorizes dismissal “[i]f the plaintiff fails to prosecute or to comply with [the Federal Rules of Civil Procedure] or a court order.” Fed. R. Civ. P. 41(b). The rule authorizes dismissal *sua sponte* or on motion of the opposing party. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Not only has Plaintiff seemingly failed to comply with Rule 4(m) requiring service of process within 90 days after the filing of the complaint, Plaintiff has also failed to comply with my February 4, 2020 order, which explicitly warned Plaintiff that this

action would be dismissed in the absence of a letter from Plaintiff.

Accordingly, it is hereby ORDERED that this action is DISMISSED pursuant to Federal Rule of Civil Procedure 41(b).

The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

Dated: February 11, 2020
New York, New York



Vernon S. Broderick
United States District Judge